

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:14-cv-00213-MOC-DLH

GENERAL SYNOD OF THE UNITED CHURCH OF
CHRIST, et al.

Plaintiffs,

Vs.

DREW RESINGER, REGISTER OF DEEDS
FOR BUNCOMBE COUNTY, et al.,

Defendants.

And

ROY COOPER, ATTORNEY GENERAL OF
NORTH CAROLINA,

Intervenor.

MEMORANDUM OF DECISION
AND ORDER

THIS MATTER is before the court on its own Motion for Judgment on the Pleadings. In light of the decision of the Court of Appeals for the Fourth Circuit in Bostic v. Schaefer, 760 F.3d 352 (4th Cir. 2014), cert. denied, ___ S.Ct. ___, 2014 WL 4354536 (U.S. Oct. 6, 2014), as to which the Mandate has now issued, Bostic v. Schaefer, No. 14-1167, 14-1169, 14-1173 (4th Cir. Oct. 6, 2014), the court determines that North Carolina's laws prohibiting same-sex marriage are unconstitutional as a matter of law.¹

¹ The Stay (#91) previously imposed was automatically dissolved on October 6, 2014, when *certiorari* was denied in *Bostic*.

Specifically, the court finds Article XIV, Section 6 of the North Carolina Constitution, North Carolina General Statute § 51-1 *et seq.*, and any other source of state law that operates to deny same-sex couples the right to marry in the State of North Carolina, prohibits recognition of same-sex marriages lawfully solemnized in other States, Territories, or a District of the United States, or threatens clergy or other officiants who solemnize the union of same-sex couples with civil or criminal penalties, are, in accordance with Bostic, supra, unconstitutional as they violate the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the United States Constitution.

Finally, in the hours preceding this Order there have been a number of last minute motions filed by interested parties. The issue before this court is neither a political issue nor a moral issue. It is a *legal* issue and it is clear as a matter of what is now settled law in the Fourth Circuit that North Carolina laws prohibiting same sex marriage, refusing to recognize same sex marriages originating elsewhere, and/or threatening to penalize those who would solemnize such marriages, are unconstitutional.

ORDER

IT IS, THEREFORE, ORDERED that

- (1) the consent Motion to Dismiss Plaintiff's First Amendment Claims (#114) is **GRANTED**, and those claims are **DISMISSED** without prejudice;
- (2) the court's Motion for Judgment on the Pleadings is **GRANTED**, and the court finds Article XIV, Section 6 of the North Carolina Constitution, North Carolina General Statute § 51-1 *et seq.*, and any other source of state law that operates to deny same-

sex couples the right to marry in the State of North Carolina or prohibits recognition of same-sex marriages lawfully solemnized in other States, Territories, or a District of the United States, or threatens clergy or other officiants who solemnize the union of same-sex couples with civil or criminal penalties, are **UNCONSTITUTIONAL** as they violate the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the United States Constitution;

(3) all other pending motions are terminated as **MOOT**.

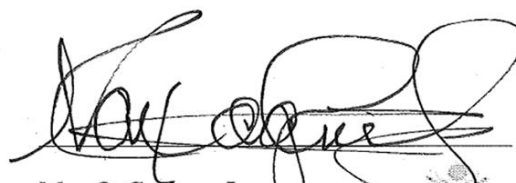
PERMANENT INJUNCTION

Defendants are **PERMANENTLY ENJOINED** from enforcing such laws to the extent these laws prohibit a person from marrying another person of the same gender, prohibit recognition of same-sex marriages lawfully solemnized in other States, Territories, or a District of the United States, or seek to punish in any way clergy or other officiants who solemnize the union of same-sex couples.

With the exception of retaining such jurisdiction as may be necessary to enforce such injunction, this action is otherwise **DISMISSED**.

The Clerk of Court shall issue a Judgment consistent with this Memorandum of Decision and Order.

Signed: October 10, 2014



Max O. Cogburn Jr.
United States District Judge